

Appl. No. : 10/613,798
Filed : July 2, 2003

REMARKS

Claims 1-7 are pending in this application. Claims 1 and 4-6 have been amended. Support for the amendments is found in the specification and claims as filed.

Claim Objections

Claims 5 and 7 have been objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Independent Claims 1 and 6 have been amended to address the pending rejections. Accordingly, Applicants respectfully request that the objection to their corresponding dependent claims 5 and 7 be withdrawn.

Claim Rejections - 35 U.S.C. §112, Second Paragraph

Claims 1 and 6 have been rejected under 35 U.S.C. §112, second paragraph, as indefinite with regard to the phrase "hydrogen (C₁-C₆)alkyl." Claims 1 and 6 have been amended to insert a comma between "hydrogen" and "(C₁-C₆)alkyl" in the definition of R².

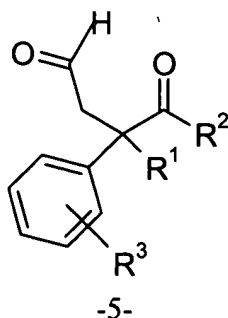
Claims 1-4 have been rejected under 35 u.S.C. §112, second paragraph, as indefinite with regard to use of the term "suitable". Claims 1, 4, and 5 have been amended to delete the modifier "suitable". The skilled artisan clearly understands the meaning of the terms "base", "leaving group", and "oxidizing agent" as used in the claims.

In view of the foregoing amendments, Applicants respectfully request withdrawal of the rejections.

Claim Rejection - 35 U.S.C. §103(a)

Claim 6 has been rejected under 35 U.S.C. §103(a) as obvious over Röver (U.S. 5,292,732). To articulate a *prima facie* case of obviousness under 35 U.S.C. §103(a), the PTO must, *inter alia*, cite prior art that teaches or suggests all the claimed limitations. *In re Royka*, 490 F.2d 981 (C.C.P.A. 1974). Röver does not disclose every element of Applicants' claims, and therefore cannot be considered as a reference that renders obvious Applicants' claims.

Claim 6 as amended recites a compound of formula:



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wherein, *inter alia*, "R¹ is (C₁-C₆)alkyl, (C₁-C₆)alkoxy, or (C₁-C₆)alkylthio." Röver discloses the compound CHOCH₂CH(R¹)C(=O)R², wherein one of R¹ and R² is aryl and the other is hydrogen, lower alkyl or aryl, or R¹ and R² together form a specified ring group. In the Rover compound, the carbon atom to which the C(=O)R² group is attached has a hydrogen atom as a substituent. In contrast, in the compound of Claim 6, none of the other substituents on the carbon atom to which the C(=O)R² group is attached is a hydrogen atom. Accordingly, Applicants respectfully request that the rejection be withdrawn.

Conclusion

In view of the foregoing amendments and remarks, it is respectfully submitted that the present application is in condition for allowance. Should the Examiner have any remaining concerns that might prevent the prompt allowance of the application, the Examiner is respectfully invited to contact the undersigned at the telephone number below.

Respectfully submitted,

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Dated: August 11, 2004

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